

REMARKS

Claims 1-18 were examined by the Office, and all claims are rejected. With this response claims 1-10, 12 and 15-18 are amended, claims 13 and 14 are cancelled without prejudice, and claim 19 is added. All amendments and new claims are supported by the specification as originally filed. Support for the amendments to claims 1, 12 and 17 can be found at least at page 4, lines 18-27 of the specification, as well as canceled claims 13 and 14. Support for new claim 19 can be found at least from Figure 2, and the accompanying text of the specification. This amendment is submitted along with a Request for Continued Examination (RCE).

Applicant respectfully requests reconsideration and withdrawal of the rejections in light of the following remarks. The independent claims are 1, 12, 17 and new claim 19.

Claim Rejections Under § 102

In section 3, on page 3 of the Office Action claims 1, 2, 4, 5 and 8-18 are rejected under 35 U.S.C. § 102(b) as anticipated by Salin. Applicant respectfully submit that Salin fails to disclose or suggest independent claim 1, because Salin at least does not disclose or suggest checking availability information of a mobile terminal device in a presence service for an indication of whether the mobile terminal device will accept a message, and initiating a delivery attempt of the message to the mobile terminal device upon receipt of at least one notification about the attainability of the mobile terminal device, and when the availability information indicates that said mobile terminal device will accept the message, as recited in amended claim 1.

Claim 1 is amended to particularly point out and distinctly claim that the delivery attempt of the message is initiated based upon the attainability of the mobile terminal, and upon availability information of the mobile terminal. Claim 1 is amended to clarify that availability information refers to whether the mobile terminal will accept the message, and attainability refers to the presence of the mobile terminal device to receive messages. Therefore, claim 1 is amended to clarify that attainability of the mobile terminal and availability information of the mobile terminal refer to separate elements recited in claim 1. As such, applicant respectfully submits that Salin does not disclose or suggest initiating a delivery attempt of a message to a mobile terminal based upon both the attainability and availability information of the mobile terminal, as recited in amended claim 1.

In contrast to amended claim 1, Salin only discloses that upon the expiration of a set time the HLR sends notification to short message service centers storing one or more short messages to be transmitted to a subscriber mobile station. See Salin column 8, lines 12-16. As seen in Figures 7 and 8, when the short message service center is notified that a short message is to be transmitted the short message service center sends the short message to a gateway Mobile Switching Center (MSC), which then in turn requests routing information from the HLR of the subscriber to which the short message to be transmitted is addressed. See Salin column 8, lines 16-21. It is not until the VMSC requests subscriber information from the VLR (i.e. the VLR monitors whether the subscriber has established a connection to the network) that the method disclosed by Salin determines whether the subscriber is reachable, and the message can be delivered. See column 8, lines 54-58; Figure 8. If the subscriber is unreachable the HLR is notified, and another attempt to send the short message will be performed upon the expiration of a set time according to the time supervision.

In contrast, claim 1 is amended to clarify that the delivery attempt is initiated upon receipt of at least one notification about the attainability of the mobile terminal device, and when the availability information indicates that the mobile terminal device will accept said message. Salin does not disclose or suggest availability information of a mobile terminal that indicates whether the mobile terminal will accept the message or not. As seen from claim 1, the availability information may be information such as the type of message, size of the message, data content of the message, location of the mobile terminal device or willingness of a user of the mobile terminal device to receive the message. Therefore, applicant respectfully submits that Salin does not disclose or suggest initiating a delivery attempt of a message upon receipt of notifications of the attainability and availability of a mobile terminal device.

In addition, contrary to the assertions of the Office, the location of the mobile terminal, recited in claim 1 as a type of availability information, does not correspond to the location of the mobile telephone mentioned in Salin, because unlike claim 1 the location of the mobile telephone in Salin has no effect on whether a delivery attempt of a message is initiated to the mobile telephone. See Salin column 7, lines 18-23. The location of the mobile terminal device recited in claim 1 relates to availability information, which is used to indicate whether the mobile terminal device will accept the message. The location area of the mobile telephone has nothing to do with whether the mobile telephone will accept a message. Instead, Salin at most discloses attempting to transmit a short message to a subscriber, regardless of whether the subscriber is reachable or not. Compare

Salin column 9, lines 6-9 (starting of message transmission depends on expiry of time supervision when subscriber is reachable) with column 9, lines 61-64 (starting of message transmissions depends on expiry of time supervision when subscriber is not reachable). Therefore, Salin does not disclose or suggest initiating the delivery attempt upon receipt of at least one notification about the attainability, i.e. that the mobile terminal device is connected to the network, and availability information, i.e. that the mobile terminal will accept the message, of the mobile terminal device. As such, for at least the reasons discussed above Salin fails to disclose all the limitations recited in amended claim 1.

Independent claims 12 and 17 contain limitations similar to those recited in independent claim 1, and are amended in a manner similar to claim 1. Therefore, for at least the reasons discussed above in relation to claim 1, claims 12 and 17 are not disclosed or suggested by Salin.

Dependent claims 2, 4-5, 8-11, 15-16 and 18 depend directly or indirectly from an independent claim, and are not disclosed or suggested by Salin at least in view of their dependencies. Therefore, applicant respectfully request withdrawal of the rejections to the dependent claims.

Claim Rejections Under § 103

At section 7, on page 12 of the Office Action claims 3, 6 and 7 are rejected under 35 U.S.C. § 103(a) as unpatentable over Salin in view of Rooke et al. (U.S. Patent No. 6,678,361). Claims 3, 6 and 7 ultimately depend from independent claim 1, and are patentable over the cited references at least in view of their dependencies.

New Claim 19

New independent claim 19 contains limitations similar to those recited in independent claim 1, and is novel and nonobvious in view of the cited references for at least the reasons discussed above in relation to claim 1.

Conclusion

The rejections of the Office Action having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested, and passage to issue of the present application is earnestly solicited. The undersigned believes that no additional fee is required to submit this

response, but hereby authorizes the Commissioner to charge deposit account 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

Date: 5 March 2007

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